IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.401 OF 1991

The State of Maharashtra ...Appellant

vs.

Anant Dinkar Kadam
Yeshwant Dinkar Kadam
Maruti Dinkar Kadam ...Respondents

Ms Geeta Mulekar, A.G.P. for State
Mr.D.S.Sawant for the Respondents.

CORAM: A.S.OKA,J.
DATE : JANUARY 10,2007.

ORAL JUDGMENT:

1. The submissions of the Advocates appearing for the parties were heard yesterday. By this First Appeal, the Appellant-State of Maharashtra has taken exception to the Judgment and Award dated 18th December 1989 passed by the learned Civil Judge Senior Division, Raigad-Alibag. By the impugned judgment and Award, a reference under section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as the said Act of 1894) made at the instance of the Respondent was partly allowed. The acquisition relates to the land at village Pendhar, Taluka Panvel, District Raigad admeasuring 1600 sq. meters. A notification under section 4 of the said Act of 1894 was issued on 3rd February 1970. The public purpose was for development of satellite city of Navi Mumbai. The Award under section 11 of the said Act of 1894 was made on 15th June 1986. By the impugned Judgment and Award, the

learned Trial Judge held that the market value of the acquired land was Rs.14/- per sq. meter on the relevant date. The learned Judge awarded all statutory benefits in favour the Respondents.

2. The learned A.G.P.for the Appellant-State of Maharashtra submitted that no evidence was led by the Respondent -claimant as regards market value prevailing on 3rd February 1970. The learned A.G.P. further submitted that the sale instances relied upon by the Respondents are not at all in respect of the comparable lands. Hence, it was submitted that the market value fixed by the learned Trial Judge is on the higher side. Shri Sawant for the Respondents invited my attention to the decision of this Court in case of Abdul Aziz Husenmiya Patel vs. Special Land Acquisition Officer in First Appeal No.875 of 1985 along with other connected First Appeals. By the said decision, the Division Bench decided a group of Appeals arising out of the Awards made under section 18 of the said Act of 1894. The Appeals preferred before the Division Bench related to agricultural lands at villages Pendhar, Taloja, Belpada and Kharghar etc. in Taluka Panvel, District Raigad which were notified under section 4 of the said Act of 1894 on 3rd February 1970. The said lands were notified for the public purpose of development of satellite city of Navi Mumbai. He submitted that the present case is squarely covered by the said decision.

3. I have considered the submissions. I have perused the decision of the Division Bench dated 16th March 2000 in case of Abdul Aziz Husenmiya Patel (supra). It is not in dispute that the lands situated at villages Pendhar, Taloja, Belpada, Kharghar, Kamothe etc.were notified for the acquisition under section 4 of the said Act of 1894 issued on 3rd February 1970. The acquisition was for the same public purpose of development of city of Navi Mumbai. My attention has been invited to paragraph 7 of the decision of the Division Bench. The Division Bench held that the market value of the lands which were abutting the Mumbai Pune national highway was Rs.25/- per sq.meter. In respect of the lands which were located at the distance of 480 meters from Mumbai Pune national highway, the market value was fixed at Rs.20/- per sq. meter. In case of the lands which were far away from the highway, the market value was fixed at the rate of Rs.19/- per sq.meter. It is not in dispute that the decision of the Division Bench has attained finality in the sense that the State of Maharashtra did not challenge the Judgment of this Court.

4. Turning to the facts of the present case, the Respondents examined Shri Jivan Kulkarni, a valuer, who in his deposition deposed that the acquired land was adjacent to Mumbai Pune national highway. The first Respondent stepped into the witness box. In examination in chief, he deposed that the

acquired land was at a distance of 200 meters from Mumbai Pune national highway. Perusal of the cross examination of the said witness made by the learned District Government Pleader shows that there is no challenge on the said aspect. In fact, the learned Trial Judge accepted the fact that the land is at the distance of 200 meters from Mumbai Pune national highway. In case of similarly situated land, the Division Bench in the aforesaid decision has granted market value at the rate of Rs.20/- per sq. meter. In the present case, the learned Trial Judge has fixed the market value at the rate of Rs.14/- per sq. meter. As the Award under section 11 of the said Act of 1894 has been made on 15th June 1986, there cannot be any dispute as regards grant of statutory benefits.

5. In this view of the matter, there is no merit in the Appeal. Hence, I pass the following order :

i) Appeal is dismissed. The Appellant will pay costs of the Appeal to the Respondents.

JUDGE